IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

WP(C).No. 24035 of 2005(J)

PETITIONER:

S. SIVANKUTTY,
S.S. NIVAS, T.C.50/40, KALADY, KARAMANA P.O.,
TRIVANDRUM-2. (PEON ADMINISTRATIVE SECRETARIAT,
TRIVANDRUM).

BY ADV. SRI.VAKKOM N.VIJAYAN
SMT.VINITHA PRASANNAN
SRI.P.ANIYAN
SMT.RAGAM.K.P.
SMT.REENA.C.STEPHENSON
SRI.A.S.SACHIN

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO
GOVERNMENT OF KERALA, TRIVANDRUM.

2. THE SECRETARY TO GOVERNMENT,
SOCIAL WELFARE (A) DEPARTMENT, GOVERNMENT OF
KERALA, TRIVANDRUM.

3. DIRECTOR OF SOCIAL WELFARE DEPARTMENT,
TRIVANDRUM.

BY GOVERNMENT PLEADER SHRI.P.NANDAKUMAR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:-

P1: Copy of the Government Order GO(P).No.33/2005/SWD dtd.5-3-2005 with a list of physically handicapped persons.

P2: Copy of the judgment dtd.17-5-2005 in WP(C) No.14408/2005 of this Hon'ble Court.

P3: Copy of order dtd.28-7-2005 vide No.GO.(Rt) 359/2005/SWD.

P4: Copy of Discharge certificate No.1352/B1/99 dtd.17-5-2000 to T.V.Sreeni, BAMS. By the O/o.the Principal, Ayurveda College, Tripunithura.

P5: Copy of Discharge Certificate of Nirmalakumari.

P6: Copy of Discharge Certificate dtd.15-1-2000 to D.Krishnakumar.

P7: Copy of Discharge Certificate dtd.17-9-1999 to E.Shaji.

P8: Copy of Discharge Certificate dtd.15-1-2000 to Premjith Vijayan.

P9: Copy of Discharge Certificate No.CS3.6014/9B dtd.4-11-1999 to Kum.P.C.Rajimol.

P10: Copy of Discharge Certificate dtd.27-1-2000 issued to Saji S.

P11: Copy of G.O.(Ms).No.19/03/SWD dtd.29-5-2003.

P12: Copy of the order dtd.9-12-2005 in WP(C).No.34254/05-C of this Hon'ble Court.

RESPONDENTS' EXHIBHITS:- Nil.

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kvs/-

P.A. To Judge.

K.K.DENESAN, J.

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WP(C).No.24035 OF 2005-J.
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Dated this the 27th day of February, 2007.

J U D G M E N T

The petitioner is a physically challenged person. He was appointed as Peon for a period of 179 days. The period of service commenced from 1-3-1999 and ended by 23-8-1999. The actual days of work on duty comes to 176 days. Since 24th, 25th and 27th of August, 1999 happened to be holidays owing to Onam Festival, the petitioner could not complete the maximum period of 179 days. Government as per G.O.(Ms.)No.101/2005/SWD, dated 19-7-2005 has clarified that if physically handicapped provisional hands could not complete 179 days of service consequent on the last day or days succeeding the last day of their service becoming holidays, they will also get the benefit of G.O.(P)No.33/2005/SWD, dated 5-3-2005.

2. Viewed in the background of Government order dated 19-7-2005 and the effect of Government order dated 5-3-2005 as construed by the Division Bench in WA.No.1601 of 2006 the petitioner is entitled to be reinstated in

service and to enjoy the benefit of regularisation of service as well.

3. The respondents shall take steps to re-appoint the petitioner as Peon and to regularise his service in terms of the above mentioned Government orders. This shall be done, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

K.K.DENESAN, JUDGE.

kvs/-